

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

<b>IN RE:</b>	§	
	§	
<b>SUPERIOR OFFSHORE INTERNATIONAL, INC.</b>	§	<b>CASE NO. 08-32590-H2-11</b>
	§	<b>(Chapter 11)</b>
	§	
<b>Debtor.</b>	§	
<hr style="border: 0.5px solid black;"/>		
<b>H. MALCOLM LOVETT, JR., PLAN AGENT,</b>	§	
	§	
	§	
<b>Plaintiff,</b>	§	
	§	
<b>vs.</b>	§	<b>Adversary No. 09-_____</b>
	§	
<b>TARPON OPERATING AND ENERGY, L.L.C.,</b>	§	
	§	
	§	
<b>Defendant.</b>	§	

**COMPLAINT**

H. Malcolm Lovett, Jr. (the “Plan Agent”), the Plan Agent under the First Amended Joint Plan of Liquidation submitted by Superior Offshore International, Inc. (the “Debtor”) and the Official Committee of Unsecured Creditors (the “Plan”), files this complaint against Tarpon Operating and Energy, L.L.C. (“Tarpon”).

**PARTIES AND JURISDICTION**

1. The Plan Agent may be served in this adversary through the undersigned counsel.
2. Tarpon is a Texas limited liability company. Tarpon will be served with this complaint and a summons by serving its president or any other officer at its principal place of business located at 2000 Dairy Ashford, Suite 578, Houston, Texas 77077. Tarpon will also be served with this complaint and a summons through its resident agent for service, Stephen R. Locke, 2000 Dairy Ashford, Suite 578, Houston, Texas 77077.

3. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (b)(2)(O).
4. Venue is proper in this district pursuant to 28 U.S.C. § 1409(a).
5. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157, 1334 and 11 U.S.C. §§ 105 and 541.

**BRIEF STATEMENT OF THE CASE**

6. The Plan Agent seeks a money judgment against Tarpon for amounts owed plus attorney's fees, costs and interest as allowed by law.

**STATEMENT OF FACTS**

7. The Debtor filed a voluntary chapter 11 case on April 24, 2008.
8. On January 28, 2009, the Court entered an order confirming the Plan. The Plan became effective on February 11, 2009.
9. Under the Plan, the Plan Agent is granted authority to assert the Debtor's claims and causes of action.
10. On April 4, 2008, the Debtor and Tarpon entered into a master service agreement under which the Debtor agreed to provide Tarpon with diving services and a support vessel in connection with Tarpon's offshore oil and gas business activities. The Debtor's rates and charges for the Well-head Intervention Project are set forth in the proposal attached as **Exhibit 1**.
11. On May 19, 2008, the Debtor forwarded its final invoice to Tarpon for its pre-petition charges totaling \$1,666,368.88. A copy of the invoice is attached as **Exhibit 2**.
12. On July 22, 2008, Tarpon forwarded a partial payment to the Debtor in the amount of \$447,581. A copy of Tarpon's check is attached as **Exhibit 3**.
13. The balance owing to the Debtor by Tarpon is \$1,218,787.88.

14. After the bankruptcy filing, the Debtor contacted Tarpon in an effort to resolve any remaining disputes over the outstanding balance owed by Tarpon. An email outlining the procedure agreed upon by the parties is attached as **Exhibit 4**. Despite the Debtor's repeated attempts to implement the foregoing procedure, Tarpon has refused to participate in any discussion or to pay the amount owed to the Debtor.

**BREACH OF CONTRACT**

15. Tarpon agreed to pay the Debtor for its services pursuant to a written agreement. All services were rendered in a professional and competent manner. All conditions precedent to payment have been met, waived or excused. Tarpon's failure to pay the amount owed constitutes a breach of the agreement between the parties. The Plan Agent seeks all actual damages of not less than \$1,218,787.88 caused by Tarpon's breach, including attorney's fees, costs and interest as allowed by applicable law.

**SUIT ON SWORN ACCOUNT**

16. The Plan Agent seeks judgment by virtue of sworn account. Pursuant to the written agreement between the parties, the Debtor invoiced Tarpon for equipment and services in the amount of \$1,666,368.88.

17. The rates charged by the Debtor are established by the written contract between the parties and are the usual, customary and reasonable prices charged for such equipment and services. This account represents the record of the transactions the Debtor systematically kept in the ordinary course of its business and is supported by the affidavit of H. Malcolm Lovett, Jr., which is attached as **Exhibit 5**.

18. The Debtor has not received payment in the amount of \$1,218,787.88. This amount is certain, due, owing, and unpaid by Tarpon after all just and lawful offsets, payments,

and credits have been allowed. Based on the foregoing, the Debtor seeks judgment against Tarpon on this account in the amount of \$1,218,787.88.

**QUANTUM MERUIT**

19. In the alternative, the Debtor seeks a judgment against Tarpon under the theory of *quantum meruit*. The Debtor provided valuable services and equipment to Tarpon for the repair of Tarpon's property. The prices charged by the Debtor were reasonable for the equipment and services provided. Tarpon accepted such services and equipment with notice and knowledge that the Debtor expected to be paid for the services and equipment provided.

20. Tarpon refuses, however, to pay the Debtor the sum of \$1,218,787.88 for such services and equipment. The Debtor has been damaged in such amount for the services and equipment provided, and seeks recovery of such damages in addition to all interest, costs and attorney's fees allowed by law.

**ATTORNEY FEES, INTEREST AND COSTS**

21. The Plan Agent requests that pursuant to TEX. CIV. PRAC. & REM. CODE § 38.001 and other applicable law, the Court enter a judgment against Tarpon for his reasonable attorney's fees. The Plan Agent also requests the award of pre- and post-judgment interest at the maximum rate provide by law and court costs.

**PRAYER**

Accordingly, the Plan Agent requests the entry of a judgment against Tarpon consistent with the above-stated causes of action and all such other and further relief to which the Plan Agent may be entitled.

**Dated: March 6, 2009.**

Respectfully submitted,

**Porter & Hedges, LLP**

A handwritten signature in black ink, appearing to read "D.R. Jones", with the letters "ECF" written in smaller script to the right of the signature.

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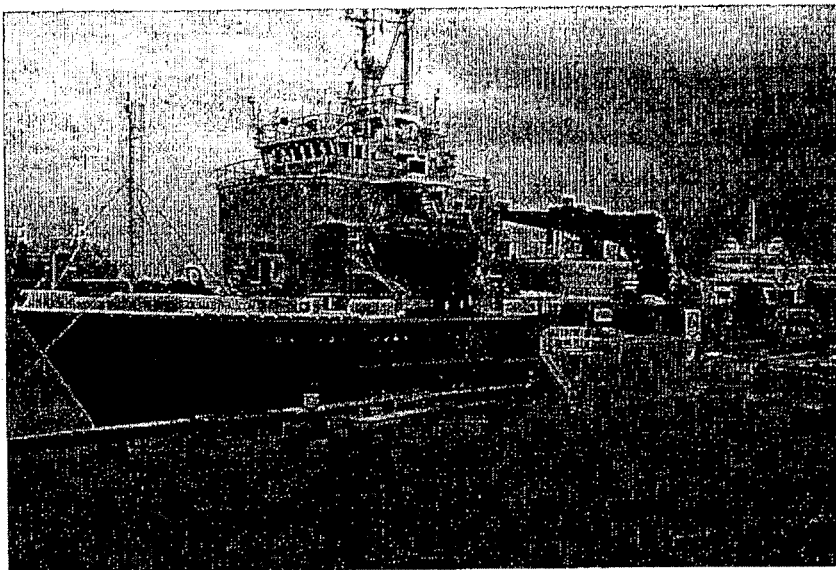
David R. Jones  
State Bar No. 00786001/S.D. Tex. No. 16082  
Joshua W. Wolfshohl  
Texas State Bar No. 24038592  
Thomas A. Woolley, III  
State Bar No. 24042193  
1000 Main Street, 36<sup>th</sup> Floor  
Houston, Texas 77002  
(713) 226-6653 (direct line)  
(713) 226-6253 (direct fax)  
**Attorneys for the Plan Agent**



CLIENT: Tarpon

Project: Well-head Intervention Project

## Superior Offshore International, Inc. Diving Services Proposal



Superior Offshore Quote#: D-8078-08-Addendum 3

Superior Offshore International, Inc.  
717 Texas Avenue, Suite 3150, Houston, Texas, 77002  
OFFICE: (713) 910-1875 FAX: (713) 910-1881  
[www.superioroffshore.com](http://www.superioroffshore.com)

### CONFIDENTIALITY

This document is the exclusive property of Superior Offshore International, Inc. It has been provided for the purpose for which it has been supplied and is not for general disclosure. The person or entity receiving this document agrees to ensure the information contained herein is only disclosed to those persons or entities having a legitimate right to receive it. The recipient should further note that this document is not to be distributed or disclosed in whole or in part to any third parties without the prior written consent of Superior Offshore International, Inc.

Rev #	Description	Prepared	Reviewed	Approved	Document No.
003	Gulmar Falcon DP-II Proposal	G.Einkauf	N.Medrano	N.Medrano	SOI-ED-CEW-GFP-0013-002

DIVING SERVICES PROPOSAL FORM

Date 04/01/2008

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# EXHIBIT

## 1



CLIENT: Tarpon

Project: Well-head Intervention Project

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CLIENT: Tarpon

Project: Well-head Intervention Project

## 2 INTRODUCTION

### 2.1 DIVING REGULATIONS

All diving services will be performed in accordance with OSHA, U.S. Coast Guard, and The International Marine Contractors Association & Guidelines.

### 2.2 COMMITMENT TO SAFETY

Superior Offshore International Inc.(hereafter referred to as "SOI"), founded in the belief that our most valuable asset is our employees, is committed to serving our domestic and international clients in the safest and most cost-effective manner. Superior Offshore International Inc. values the lives of our employees, our clients and the equipment and property we utilize and service. As a result of our strict safety procedures and constantly updated and improved upon operational practices, Superior Offshore International Inc. has demonstrated a strong safety record in the subsea service industry spanning 40 years.

### 2.3 SAFETY STATISTICS

Total Recordable Incident Rate =  $\frac{\# \text{ of Recordable Cases (Medical, LTI, \& Restricted Duty Cases)}}{\text{Man-Hours Worked}} \times 200,000$

Lost Time Incident Rate =  $\frac{\# \text{ Lost Work Day Cases}}{\text{Man-Hours Worked}} \times 200,000$

Severity Rate =  $\frac{\# \text{ of Lost Work Days}}{\text{Man-Hours Worked}} \times 200,000$

Year	Employee Hours	Recordable Cases	Lost Work Day Cases	Number of Fatalities	TRIR	LTRIR	# of Lost Work Days	Severity Rate	EMR
YTD07	1,107,204.48	6	0	1	1.08	0.00	0	0.00	0.8
2006	1,118,363	6	2	0	1.07	0.36	30	5.36	0.8
2005	546,405	4	1	0	1.46	0.37	66	24.16	0.9
2004	276,637	5	1	0	3.61	0.72	11	7.95	1
2003	243,000	4	3	0	3.29	2.47	116	95.47	N/A
2002	150,344	2	2	0	2.66	2.66	104	138.35	N/A
2001	124,495	2	1	0	3.21	1.61	7	11.25	N/A

### 2.4 SCOPE OF WORK

The scope of work will be performed with diving services. It is understood that the following tasks will comprise the scope of work:

Diving Support Vessel and diving services as described by the client to Well-head intervention Project and work as directed.





CLIENT: Tarpon

Project: Well-head Intervention Project

### 3 DEFINITIONS

#### 3.1 GLOSSARY

API-American Petroleum Institute	LBS-Pounds
APS-Alternative Positioning Solutions	LOTO-Lock-Out/Tag-Out
CFM-Cubic Feet Per Minute	LST-Life Support Technician
CP-Cathodic Protection	LTI – Lost Time Incident
CST-Central Standard Time	LTRIR-Lost Time Incident Rate
DGPS-Differential Global Positioning System	MSDS-Material Safety Data Sheet
DP-Dynamic Positioning	NA-Not Applicable
DPR-Daily Progress Report	NAS-National Aerospace Standard
DSV-Divers Support Vessel	NORM-Naturally Occurring Radioactive Material
EMR-Experience Modification Rating	O2-Oxygen
ETC-Exedra	OHSA-Occupational Health and Safety Administration
FSW-Feet Sea Water	PDU-Power Distribution Unit
FT-Feet	PPE-Personnel Protection Equipment
GOM-Gulf of Mexico	PSI-Pounds Per Square Inch
GPS-Global Positioning System	PTW-Permit to Work
GVI-General Visual Inspection	ROV-Remote Operated Vehicle
HAZOP-Hazards and Operability Safety System	SAT-Saturation
HiPAP-High Precision Acoustic Positioning	SOI-Superior Offshore international
HRC-Hyperbaric Rescue Chamber	SIMOPS-Simultaneous Operation
HSE-Health Safety and Environment	TBD-To be Determined
HVTV-High Voltage Transformer Unit	TRIR-Total Recordable Incident Rate
IHPU-Isolated Hydraulic Power Unit	USBL-Ultra Short Base Line
IMCA – International Marine Contractors Association	USD-United States Dollar
JSA-Job Safety Analysis	VAT-Value Added Tax
LARS-Launch and Recovery	



CLIENT: Tarpon

Project: Well-head Intervention Project

#### 4 GENERAL CRITERIA

Client:	Tarpon
Contact:	Steve Locke
Address:	2000 Dairy Ashford, Suite 578, Houston, Texas 77077
Phone Number:	281-493-6262
Location:	WC 616 & SMI 195
Water Depth:	315' Max
Vessel:	Gulmar Falcon / Superior Endeavour – DP-II
Validity:	30 days
Project Date:	TBD
Project Duration:	TBD



CLIENT: Tarpon

Project: Well-head Intervention Project

**5 LIST OF PERSONNEL****5.1 PERSONNEL (24 HOUR OPERATIONS EXCLUDING OVERTIME)**

1 x Project Manager  
 1 x Offshore Manager  
 2 x SAT Supervisors  
 2 x SAT Techs  
 6 x SAT Divers  
 2 x L.S.T.'s  
 4 x Divers  
 8 x Tenders  
 1 x Safety Medic/Clerk

**5.2 PERSONNEL OVERTIME RATE (AFTER 12 HOURS)**

Project Manager	N/A
Offshore Manager	\$ 143.00 per hour
SAT Supervisors (each)	Day Rate
SAT Divers (each)	N/A
L.S.T.'s (each)	\$ 111.00 per hour
Divers (each)	\$ 101.00 per hour
Tenders (each)	\$ 63.00 per hour
Safety Medic/Clerk	\$ 104.00 per hour



CLIENT: Tarpon

Project: Well-head Intervention Project

### 5.3 ADDITIONAL / THIRD PARTY SERVICES / EQUIPMENT

- Third Party Items will be billed at Cost Plus 15%
- Third Party Trucking to be paid by Customer or billed by SOI at Cost Plus 15%
- Dock Fees to be billed at Cost Plus 15%
- Carryall to be billed at Cost Plus 15%
- Third Party subcontractors to be billed at Cost Plus 15%
- Typical Third Party Contractors are listed below
  - Morgan City Rentals
  - Redfish Rentals
  - Mako Technologies
  - A.P.S.

### 5.4 CONSUMABLES

- Job specific consumables, excluding fuel, will be billed at Cost Plus 15%.  
(Fuel is to be provided by the client ; Lubricants and Water are at Cost plus 15%.)



CLIENT: Tarpon

Project: Well-head Intervention Project

## 6 SUPERIOR OFFSHORE DIVING SUPPORT VESSEL PRICING

### 6.1 DIVING SUPPORT VESSEL

- DP-II Vessel "Guimar Falcon" – Foreign Flagged
- Surveyor with D.G.P.S., U.S.B.L., Provided by APS
- Subsistence for all third party subcontractors and CLIENT  
provided personnel to be billed at \$30/Day/Man/Unit
- Lubricants and Water are to be billed at Cost Plus 15%.
- Fuel to be provided by CLIENT and will not incur an upcharge from SOI.

### 6.2 EQUIPMENT

- |                          |                               |
|--------------------------|-------------------------------|
| 2 – Hot Water            | 2 – Hydraulic Pumps           |
| 2 – Video Units          | 1 – Hydraulic Hose Reel 600ft |
| 1 – Dive Support Package | 2 – Hydraulic Impacts 1.5     |
| 1 – 900 cfm Roto Screw   | 2 – Hydraulic Grinders        |
| 1 – 6x6 Jet Pump Package | 2 – Misc Hydraulic Tools      |



CLIENT: Tarpon

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**6.3 TOTAL DAY RATE\***

**Total Day Rate for Vessel, Surveyor, Personnel,  
Equipment & Typical Diving Consumables**  
(Excluding Job Specific Consumables)

**\$ 119,000/Day**

\*Day Rate commences when 1<sup>st</sup> piece of CLIENT equipment is loaded on to Vessel at dockside.

\*Day Rate ceases when last piece of CLIENT equipment is off-loaded from Vessel at dockside.

**6.4 MOBILIZATION / DEMOBILIZATION**

- Vessel Relocation to be billed at Hourly Rate
- Surveyor APS to be billed at Cost Plus 15%
- Personnel Transportation to be billed at Cost Plus 15%
- Dockside Services are client's responsibility or SOI can arrange and bill services at Cost Plus 15%.
- Vessel Mobilization/Demobilization if from Fourchon, LA.

**6.5 DEPTH PREMIUM CHART (APPLICABLE ONLY FOR SURFACE DIVING)**

<u>Depth Premium (in feet):</u>	<u>Rate Per Foot:</u>
0 – 100	\$2 / ft.
101 – 150	\$4 / ft.
151 – 200	\$6 / ft.
201 – 250	\$8 / ft.
251 – 300	\$10/ ft.

Depth premium will be charged for the deepest dive per diver in each calendar day and for each dive when repetitive diving occurs. The **SAT Superintendent and SAT Supervisors** will be credited for the deepest dive of the day. The rate chart above is cumulative.



CLIENT: Tarpon

Project: Well-head Intervention Project

## 6.6 DESATURATION CHARGES

**Day Rate for Vessel, Personnel,  
Only while divers are in Decompression Mode Dockside  
(Excluding Job Specific Consumables)**

**\$ 95,500/Day**

### VESSEL

- DP-II Vessel "Gulmar Falcon" – Foreign Flagged
- Subsistence for all third party subcontractors and CLIENT
- Fuel is to be provided by the client
- Lubricants and Water are to be billed at Cost (+) 15%

### PERSONNEL (24 Hour Operations Excluding Overtime):

- 1 - SAT Supervisor
- 6 - SAT Divers
- 1 - SAT Tech
- 2 - L.S.S.'s
- 4 - Tenders

### EQUIPMENT:

- SAT System



CLIENT: Tarpon

Project: Well-head Intervention Project

## 7 TERMS AND CONDITIONS

*In the event of a conflict between any "Terms and Conditions" and the Master Service Agreement or other agreement between CLIENT and Superior Offshore International, Inc., the "Terms and Conditions" contained herein will control aspects not covered by the Master Service Agreement; except as may be specifically agreed to in writing by both parties.*

### 7.1 CONDITIONS OF DIVING RATES

7.1.1 The SOI will not absorb any weather downtime or lapses between projects or camoject. SOI will entertain a reduction of \$3500.00 to the working day-rate offshore only if Lump Sum Pricing applies. This is to reflect that NO usage of Diving Gas average per day. System consumption remains, diving consumption is on standby. Reduction is only applicable on full 24-hr standby period. Interim period are not subject to reduction in day-rate.

7.1.2 Typical diving consumables are included in quoted rates. Project specific consumables, such as, but not limited to: reflectors, buoys w/rope, burning or welding rods, burning O2, diving gases, etc. are excluded and will be charged per consumable pricing sheet or at Cost Plus 15%.

## 8 TERMS AND CONDITIONS – EQUIPMENT

### 8.1 CONDITIONS OF EQUIPMENT RATES

8.1.1 Equipment (exclusive of vessels) is allowed 2 hours of maintenance or downtime per day. This time is cumulative with a maximum limit of 24 hours per month, and will not be subject to credit or penalties.

8.1.2 Should Jetting Operations be required for more than 350 feet of water, SOI will require additional equipment which will be at an additional cost to CLIENT.

8.1.3 Should Underwater Burning Operations be required for more than 350 feet of water, SOI will require additional equipment which will be at an additional cost to CLIENT.

8.1.4 Superior Intends to use third party contractors identified in Quote #D-8078-08 Addendum 3. In the event an identified third party is not available or does not have necessary equipment SOI reserves the right to substitute another third party contractor of like Quality & Capability.





CLIENT: Tarpon

Project: Well-head Intervention Project

## 9 TERMS AND CONDITIONS - CLIENT

### 9.1 PROVISIONS BY CLIENT

- 9.1.1 CLIENT shall provide all dockside / onshore handling, transportation and disposal of salvaged materials, inclusive of NORM testing, if required. The ownership of said salvaged items, as well as any other equipment / materials removed during these procedures, shall remain the sole property of CLIENT. Additionally, the CLIENT shall retain any and all obligations / liabilities with respect to any hazardous / industrial wastes and / or NORMS associated therewith.

## 10 TERMS AND CONDITIONS - OTHER

### 10.1 CONDITIONS OF EQUIPMENT RATES

- 10.1.1 Superior Offshore's proposal is based on operations in currents less than of 1.5 knots. Should current be in excess of 1.5 knots, Superior Offshore International will endeavor to continue operations unless the work presents an operational risk to the ROV. Daily rates shall apply for periods of downtime due to excessive current
- 10.1.2 COMPANY shall furnish a map setting forth the correct location of all pipelines, platforms, other permanent facilities and obstructions in the area of the work. COMPANY shall release, defend and indemnify CONTRACTOR, its subcontractors and their respective officers, directors, employees and vessels from claims, demands or suits to the extent arising out of errors or omissions in said map.
- 10.1.3 CONTRACTOR shall submit its invoices every fifteen (15) days or upon completion of project, whichever is shorter. COMPANY shall make payment of all undisputed portions of invoice within thirty (30) calendar days following receipt of invoice. If COMPANY reasonably disputes any portion of an invoice, COMPANY shall notify CONTRACTOR in writing of the amount in dispute and the reasons therefore within fifteen (15) calendar days from the date of receipt of such invoice by COMPANY. If notice is not timely given, all amounts will be conclusively deemed to be undisputed.
- 10.1.4 If COMPANY fails to make payment on any undisputed portion of any invoice within sixty (60) calendar days after receipt of the invoice, interest shall be due on the unpaid amount at the rate 1 ½ % per month or part thereof until payment is made. On all disputed amounts of any invoice subsequently determined to be due, COMPANY shall pay interest at the rate of 1 ½ % per month of the due amount beginning thirty (30) calendar days after the receipt of the original invoice.
- 10.1.5 Final acceptance of the work and installation will be given by the COMPANY representative before the dive crew demobilizes, and will be conclusive. Any deficiencies will be remedied prior to said acceptance being given.



CLIENT: Tarpon

Project: Well-head Intervention Project

- 10.1.6 CONTRACTOR will only warrant its own workmanship, materials, equipment, and services. CONTRACTOR will not be responsible or liable for any deficiency or defects, rental equipment or services provided by third parties. Any downtime incurred by or as a result of third parties will not affect any pricing given by SOI. COMPANY shall not expect or receive any concessions during this downtime from SOI. Should COMPANY desire any discounts or concessions, COMPANY will be required to negotiate any discounts or concessions with the third party responsible for such downtime. Discounts and concessions will come from the third parties only. Third parties to be subject to prior approval by COMPANY.
- 10.1.7 COMPANY must notify CONTRACTOR within (7) seven working days prior to mobilization if Operator Qualified personnel are required for the specific job scope and indicate specific tasks that will be expected to be performed.



CLIENT: Tarpon

Project: Well-head Intervention Project

## 11 TERMS AND CONDITIONS OF PERSONNEL

### 11.1 PERSONNEL

- 11.1.1 SOI proposal is contingent upon availability of personnel and equipment.
- 11.1.2 A qualified tender who makes a dive as required and approved by the customer will be charged as a diver for that day.
- 11.1.3 The SOI Superintendent will have the ultimate decision concerning safe working conditions.
- 11.1.4 SOI will rotate Diving crew and Marine personnel every 15-30 days or as the scope of work changes. All costs associated with the rotation will be charged to the CLIENT'S account.
- 11.1.5 CLIENT agrees to the following terms, conditions and clarifications: any costs associated with attending pre-job and/or post job meetings (travel, hotel, meals, etc.) required by the CLIENT will be billed at Cost Plus 15%. The amount of \$1,000 per person per day for all SOI personnel attending these meetings will be for CLIENT'S account. Day rate will be in effect from the date SOI Personnel depart their respective facilities, until the date they return.
- 11.1.6 SOI'S proposal excludes all unforeseen applicable federal and state charges and taxes. If charges are relevant to this job, SOI will submit price at Cost Plus 15%.
- 11.1.7 In the event SOI'S SAT divers are required to exceed a depth of 500 fsw, SOI will charge \$2/ft. per diver after 500 fsw.
- 11.1.8 If SOI is not able to commence mobilization activities as provided under this contract by April 15, 2008, Client in its sole discretion may terminate this Contract and have no obligations to SOI hereunder.



CLIENT: Tarpon

Project: Well-head Intervention Project

## 12 TERMS AND CONDITIONS FOR DSV

### 12.1 DIVING SUPPORT VESSEL

12.1.1 Piloting and other Governmental Fees/Approvals, including but not limited to those required under the Homeland Security Act, for foreign and domestic flagged vessels have not been included in the quoted price. These fees will be billed to CLIENT at Cost Plus 15%. Any downtime incurred while waiting for piloting and/or U.S. Government approval to be completed is not included and therefore SOI'S hourly rates will be in effect during this downtime, unless due to contractor's negligence in scheduling.

12.1.2 SOI has included an "on-board" survey system for use during construction. CLIENT furnished coordinates of all existing pipelines, obstructions, hazards, pipeline route, right of way, corridor, etc., will be put into the system. No buoys will be utilized for marking the above. (As-built drawings will be developed by plotting the vessel track and utilizing a calculated touch down point)

12.1.3 Vessels are each allowed 2 hours of maintenance or downtime per day. This time is cumulative with a maximum limit of 24 hours per month, and will not be subject to credit or penalties.

12.1.4 SOI reserves the right to alter submittal third party vessel information and/or pricing due to availability and/or market fluctuation.

12.1.5 Costs associated with the disposal of liquid trash or "wet trash", including, but not limited to, any fees required by U.S. Customs or Department of Agriculture for foreign and domestic flagged vessels, have not been included in the quoted price. These costs, including fees, will be billed to the CLIENT at Cost. Any downtime incurred due to the CLIENT'S failure to adhere to SOI'S procedure for "wet trash" disposal is not included in this quote and will be invoiced at SOI'S hourly rate.

12.1.6 The Global Positioning System (GPS) is the property of (and operated by) the US Department of Defense (DOD). As a result S.O.I. will not be responsible for any positioning degradation or omission of positioning directly attributable to the GPS's system.

12.1.7 SOI'S proposal is based on conducting DP trials in accordance with IMCA standard (formerly DPVOA).

12.1.8 D-Sat charges will begin upon arrival at the dock and continue until divers reach the surface plus 24 hours standby on the vessel or they will begin when the vessel starts another project. In the event the vessel starts another project the 24 hours standby on the vessel will be excluded from the D-Sat time. SOI and Client will endeavor to negotiate with other clients if multiple projects are performed concurrently with this one. Otherwise client is responsible for D-Sat Charges as stated above. SOI will



CLIENT: Tarpon

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entertain a reduction in the D-Sat Rate on the 24-hr bend watch standby and such must be negotiated prior the completion of the D-Sat process.



CLIENT: Tarpon

Project: Well-head Intervention Project

## ATTACHMENT 1 – ACKNOWLEDGEMENT OF CONTRACT

Superior Offshore International, Inc.  
717 Texas Avenue, Suite 3150  
Houston, Texas 77002  
(713) 910-1875 phone  
(713) 910-1881 fax

Return to [estimating@superioroffshore.com](mailto:estimating@superioroffshore.com)

Subject: Proposal Number D-8078-08 Addendum 3, dated 04/07/08

We hereby acknowledge receipt and confirm our full acceptance of the documents referred to under the subject and hereby fully agree on the contents of it without any reservation whatsoever.

Dated:

4-7-08

CLIENT:

Tarpon Operating & Development LLC

Printed Name:

Stephen R. Locke

Authorized Signature:

Stephen R. Locke

INVOICE TO:		SOI INVOICE NO.: 10450-08	INVOICE DATE: May 19, 2008	
TARPON OPERATING & DEVELOPMENT, LLC		SOI JOB NO.: 1199-0112	TERMS: NET 30 DAYS	
2000 DAIRY ASHFORD STREET		SOI QUOTE NO.: D-8078-08	Invoices not paid within 30 days of invoice date will	
HOUSTON, TEXAS 77077		ADDENDUM 3	accrue interest at a rate of 1.5% per month.	
ATTENTION: STEVE LOCKE			AFE NO.:	
			LOCATION: WC 616 & SMI 195	
			VESSEL: GULMAR FALCON	
DATE	QUANTITY	DESCRIPTION	UNIT	TOTAL
04/11/08		<b>\$ 120,672.20</b>		
		<b>TOTAL DAY RATE FOR VESSEL, PERSONNEL, EQUIPMENT &amp; TYPICAL</b>		
	1	<b>DIVING CONSUMABLES</b> (Excluding Job Specific Consumables)	119,000.00	119,000.00
		<b>CONSUMABLES</b>		
	3362	GAS CONSUMPTION (CUBIC FEET)	0.25	840.50
	2	SODA SORB	100.00	200.00
		<b>VESSEL (GULMAR FALCON)</b>		
	1.32	GALLONS LUBE USAGE	10.86	14.34
	6710	GALLONS WATER USAGE	0.01600	107.36
	17	UNITS OF SUBSISTENCE	30.00	510.00
04/12/08		<b>\$ 120,860.29</b>		
		<b>TOTAL DAY RATE FOR VESSEL, PERSONNEL, EQUIPMENT &amp; TYPICAL</b>		
	1	<b>DIVING CONSUMABLES</b> (Excluding Job Specific Consumables)	119,000.00	119,000.00
		<b>CONSUMABLES</b>		
	4604	GAS CONSUMPTION (CUBIC FEET)	0.25	1,151.00
	1	SODA SORB	100.00	100.00
		<b>VESSEL (GULMAR FALCON)</b>		
	1.32	GALLONS LUBE USAGE	10.86	14.34
	9684.5	GALLONS WATER USAGE	0.01600	154.95
	18	UNITS OF SUBSISTENCE	30.00	540.00
04/13/08		<b>\$ 120,108.64</b>		
		<b>TOTAL DAY RATE FOR VESSEL, PERSONNEL, EQUIPMENT &amp; TYPICAL</b>		
	1	<b>DIVING CONSUMABLES</b> (Excluding Job Specific Consumables)	119,000.00	119,000.00
		<b>CONSUMABLES</b>		
	254	GAS CONSUMPTION (CUBIC FEET)	0.25	63.50
	2	SODA SORB	100.00	200.00
		<b>VESSEL (GULMAR FALCON)</b>		
	17.2	GALLONS LUBE USAGE	10.86	186.79
	7396.8	GALLONS WATER USAGE	0.01600	118.35
	18	UNITS OF SUBSISTENCE	30.00	540.00
				CONTINUED

EXHIBIT

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INVOICE TO:		SOI INVOICE NO.: 10450-08	INVOICE DATE: May 19, 2008	
TARPON OPERATING & DEVELOPMENT, LLC		SOI JOB NO.: 1199-0112	TERMS: NET 30 DAYS	
2000 DAIRY ASHFORD STREET		SOI QUOTE NO.: D-8078-08	Invoices not paid within 30 days of invoice date will	
HOUSTON, TEXAS 77077		ADDENDUM 3	accrue interest at a rate of 1.5% per month.	
ATTENTION: STEVE LOCKE			AFE NO.:	
			LOCATION: WC 616 & SMI 195	
			VESSEL: GULMAR FALCON	
DATE	QUANTITY	DESCRIPTION	UNIT	TOTAL
04/14/08		<b>\$ 120,290.85</b>		
		<b><u>TOTAL DAY RATE FOR VESSEL, PERSONNEL, EQUIPMENT &amp; TYPICAL</u></b>		
	1	<b><u>DIVING CONSUMABLES</u></b> (Excluding Job Specific Consumables)	119,000.00	119,000.00
		<b><u>CONSUMABLES</u></b>		
	169	GAS CONSUMPTION (CUBIC FEET)	0.25	42.25
	2	SODA SORB	100.00	200.00
		<b><u>VESSEL (GULMAR FALCON)</u></b>		
	34.34	GALLONS LUBE USAGE	10.86	372.93
	6604.3	GALLONS WATER USAGE	0.01600	105.67
	19	UNITS OF SUBSISTENCE	30.00	570.00
04/16/08		<b>\$ 121,558.54</b>		
		<b><u>TOTAL DAY RATE FOR VESSEL, PERSONNEL, EQUIPMENT &amp; TYPICAL</u></b>		
	1	<b><u>DIVING CONSUMABLES</u></b> (Excluding Job Specific Consumables)	119,000.00	119,000.00
		<b><u>CONSUMABLES</u></b>		
	6187	GAS CONSUMPTION (CUBIC FEET)	0.25	1,546.75
	2	SODA SORB	100.00	200.00
		<b><u>VESSEL (GULMAR FALCON)</u></b>		
	19.54	GALLONS LUBE USAGE	10.86	212.20
	1849.2	GALLONS WATER USAGE	0.01600	29.59
	19	UNITS OF SUBSISTENCE	30.00	570.00
04/16/08		<b>\$ 120,305.61</b>		
		<b><u>TOTAL DAY RATE FOR VESSEL, PERSONNEL, EQUIPMENT &amp; TYPICAL</u></b>		
	1	<b><u>DIVING CONSUMABLES</u></b> (Excluding Job Specific Consumables)	119,000.00	119,000.00
		<b><u>CONSUMABLES</u></b>		
	424	GAS CONSUMPTION (CUBIC FEET)	0.25	106.00
	2	SODA SORB	100.00	200.00
		<b><u>VESSEL (GULMAR FALCON)</u></b>		
	29.05	GALLONS LUBE USAGE	10.86	315.48
	7132.7	GALLONS WATER USAGE	0.01600	114.12
	19	UNITS OF SUBSISTENCE	30.00	570.00
				CONTINUED



INVOICE TO:		SOI INVOICE NO.: 10450-08	INVOICE DATE: May 19, 2008	
TARPON OPERATING & DEVELOPMENT, LLC		SOI JOB NO.: 1199-0112	TERMS: NET 30 DAYS	
2000 DAIRY ASHFORD STREET		SOI QUOTE NO.: D-8078-08	Invoices not paid within 30 days of invoice date will	
HOUSTON, TEXAS 77077		ADDENDUM 3	accrue interest at a rate of 1.5% per month.	
ATTENTION: STEVE LOCKE			AFE NO.:	
			LOCATION: WC 616 & SMI 195	
			VESSEL: GULMAR FALCON	
DATE	QUANTITY	DESCRIPTION	UNIT	TOTAL
04/17/08		<b>\$ 121,694.56</b>		
		<b>TOTAL DAY RATE FOR VESSEL, PERSONNEL, EQUIPMENT &amp; TYPICAL</b>		
	1	<b>DIVING CONSUMABLES</b> (Excluding Job Specific Consumables)	119,000.00	119,000.00
		<b>CONSUMABLES</b>		
	5848	GAS CONSUMPTION (CUBIC FEET)	0.25	1,462.00
	1	SODA SORB	100.00	100.00
		<b>VESSEL (GULMAR FALCON)</b>		
	31.14	GALLONS LUBE USAGE	10.86	338.18
	14024	GALLONS WATER USAGE	0.01600	224.38
	19	UNITS OF SUBSISTENCE	30.00	570.00
04/18/08		<b>\$ 121,272.19</b>		
		<b>TOTAL DAY RATE FOR VESSEL, PERSONNEL, EQUIPMENT &amp; TYPICAL</b>		
	1	<b>DIVING CONSUMABLES</b> (Excluding Job Specific Consumables)	119,000.00	119,000.00
		<b>CONSUMABLES</b>		
	4322	GAS CONSUMPTION (CUBIC FEET)	0.25	1,080.50
	2	SODA SORB	100.00	200.00
		<b>VESSEL (GULMAR FALCON)</b>		
	29.1	GALLONS LUBE USAGE	10.86	316.03
	6604.3	GALLONS WATER USAGE	0.01600	105.67
	19	UNITS OF SUBSISTENCE	30.00	570.00
04/19/08		<b>\$ 121,868.74</b>		
		<b>TOTAL DAY RATE FOR VESSEL, PERSONNEL, EQUIPMENT &amp; TYPICAL</b>		
	1	<b>DIVING CONSUMABLES</b> (Excluding Job Specific Consumables)	119,000.00	119,000.00
		<b>CONSUMABLES</b>		
	6074	GAS CONSUMPTION (CUBIC FEET)	0.25	1,518.50
	2	SODA SORB	100.00	200.00
		<b>VESSEL (GULMAR FALCON)</b>		
	40.94	GALLONS LUBE USAGE	10.86	444.61
	8477	GALLONS WATER USAGE	0.01600	135.63
	19	UNITS OF SUBSISTENCE	30.00	570.00
				CONTINUED

INVOICE TO:

SOI INVOICE NO.: 10450-08

INVOICE DATE: May 19, 2008

SOI JOB NO.: 1199-0112

TERMS: NET 30 DAYS

TARPON OPERATING & DEVELOPMENT, LLC

SOI QUOTE NO.: D-8078-08

Invoices not paid within 30 days of invoice date will

2000 DAIRY ASHFORD STREET

ADDENDUM 3

accrue interest at a rate of 1.5% per month.

HOUSTON, TEXAS 77077

AFE NO.:

ATTENTION: STEVE LOCKE

LOCATION: WC 616 & SMI 195

VESSEL: GULMAR FALCON

DATE	QUANTITY	DESCRIPTION	UNIT	TOTAL
04/20/08		<b>\$ 121,443.13</b>		
		<b>TOTAL DAY RATE FOR VESSEL, PERSONNEL, EQUIPMENT &amp; TYPICAL</b>		
	1	<b>DIVING CONSUMABLES</b> (Excluding Job Specific Consumables)	119,000.00	119,000.00
		<b>CONSUMABLES</b>		
	4802	GAS CONSUMPTION (CUBIC FEET)	0.25	1,200.50
	2	SODA SORB	100.00	200.00
		<b>VESSEL (GULMAR FALCON)</b>		
	34.34	GALLONS LUBE USAGE	10.86	372.93
	6231	GALLONS WATER USAGE	0.01600	99.70
	19	UNITS OF SUBSISTENCE	30.00	570.00
04/21/08		<b>\$ 120,613.67</b>		
		<b>TOTAL DAY RATE FOR VESSEL, PERSONNEL, EQUIPMENT &amp; TYPICAL</b>		
	1	<b>DIVING CONSUMABLES</b> (Excluding Job Specific Consumables)	119,000.00	119,000.00
		<b>CONSUMABLES</b>		
	3017	GAS CONSUMPTION (CUBIC FEET)	0.25	754.25
	2	SODA SORB	100.00	200.00
		<b>VESSEL (GULMAR FALCON)</b>		
	2.91	GALLONS LUBE USAGE	10.86	31.60
	3613.4	GALLONS WATER USAGE	0.01600	57.81
	19	UNITS OF SUBSISTENCE	30.00	570.00
04/22/08		<b>\$ 120,234.68</b>		
		<b>TOTAL DAY RATE FOR VESSEL, PERSONNEL, EQUIPMENT &amp; TYPICAL</b>		
	1	<b>DIVING CONSUMABLES</b> (Excluding Job Specific Consumables)	119,000.00	119,000.00
		<b>CONSUMABLES</b>		
	367	GAS CONSUMPTION (CUBIC FEET)	0.25	91.75
	2	SODA SORB	100.00	200.00
		<b>VESSEL (GULMAR FALCON)</b>		
	34.34	GALLONS LUBE USAGE	10.86	372.93
	19	UNITS OF SUBSISTENCE	30.00	570.00

CONTINUED

CONTINUED

INVOICE TO:		SOI INVOICE NO.: 10450-08	INVOICE DATE: May 19, 2008	
TARPON OPERATING & DEVELOPMENT, LLC		SOI JOB NO.: 1199-0112	TERMS: NET 30 DAYS	
2000 DAIRY ASHFORD STREET		SOI QUOTE NO.: D-8078-08	Invoices not paid within 30 days of invoice date will	
HOUSTON, TEXAS 77077		ADDENDUM 3	accrue interest at a rate of 1.5% per month.	
ATTENTION: STEVE LOCKE		AFE NO.:	LOCATION: WC 616 & SMI 195	
			VESSEL: GULMAR FALCON	
DATE	QUANTITY	DESCRIPTION	UNIT	TOTAL
04/23/08		\$ 120,135.18		
		TOTAL DAY RATE FOR VESSEL, PERSONNEL, EQUIPMENT & TYPICAL		
	1	DIVING CONSUMABLES (Excluding Job Specific Consumables)	119,000.00	119,000.00
		CONSUMABLES		
	141	GAS CONSUMPTION (CUBIC FEET)	0.25	35.25
	2	SODA SORB	100.00	200.00
		VESSEL (GULMAR FALCON)		
	30.38	GALLONS LUBE USAGE	10.86	329.93
	19	UNITS OF SUBSISTENCE	30.00	570.00
		THIRD PARTY CHARGES		
	1	PHARMA SAFE (1 MAN, 9 DAYS @ \$636.00 PER DAY)	5,724.00	5,724.00
	1	C&C TECHNOLOGIES (2 SURVEYORS & EQUIPMENT, 18 DAYS @ \$2,980.00 PER DAY)	53,640.00	53,640.00
04/16/08	1.15	A&M DOCKSIDE REPAIR, INC. INVOICE 4654 + 15%	16,050.00	18,457.50
04/14/08	1.15	HOS PORT, LLC INVOICE 33624 + 15%	100.00	115.00
04/11/08	1.15	HOS PORT, LLC INVOICE 33637 + 15%	250.00	287.50
04/14/08	1.15	HOS PORT, LLC INVOICE 33727 + 15%	2,380.00	2,737.00
04/14/08	1.15	HOS PORT, LLC INVOICE 33729 + 15%	2,430.00	2,794.50
04/14/08	1.15	HOS PORT, LLC INVOICE 33709 + 15%	692.50	796.38
04/14/08	1.15	HOS PORT, LLC INVOICE 33710 + 15%	1,785.00	2,052.75
04/14/08	1.15	HOS PORT, LLC INVOICE 33730 + 15%	692.50	796.38
04/14/08	1.15	HOS PORT, LLC INVOICE 33735 + 15%	715.00	822.25
04/14/08	1.15	HOS PORT, LLC INVOICE 33761 + 15%	692.50	796.38
04/10/08	1.15	SOUTHERN STEEL & SUPPLY INVOICE 159697 + 15%	1,350.70	1,553.31
04/15/08	1.15	SOUTHERN STEEL & SUPPLY INVOICE 402036 + 15%	974.02	1,120.12
04/22/08	1.15	VENTURE TRANSPORT LOGISTICS, LLC INVOICE 2689658 + 15%	1,027.73	1,181.89
04/22/08	1.15	VENTURE TRANSPORT LOGISTICS, LLC INVOICE 2689659 + 15%	473.13	544.10
04/22/08	1.15	VENTURE TRANSPORT LOGISTICS, LLC INVOICE 2689660 + 15%	302.09	347.40
04/22/08	1.15	VENTURE TRANSPORT LOGISTICS, LLC INVOICE 2689661 + 15%	287.09	330.15
04/17/08	1	SOI VAN TO TRANSPORT PERSONNEL INVOICE RR052	1,114.00	1,114.00

TOTAL SOI INVOICE 10450-08: \$ 1,666,368.88

TARPON OFFSHORE VENTURES, LP  
HOUSTON, TEXAS 77077VENDOR  
SU0978CHECK DATE  
07/22/08

3539

INVOICE NUMBER	INVOICE DATE		DISCOUNT TAKEN	AMOUNT PAID
10450-08CC	05/19/08	29256	\$0.00	\$447,581.00
Total:			\$0.00	\$447,581.00

SF4001BOTT-1SC

TO REORDER, CALL YOUR LOCAL SAFEGUARD DISTRIBUTOR AT 706-327-9550

HRWKVB0010000 G05SF009378

3539

ORIGINAL DOCUMENT PRINTED ON CHEMICAL REACTIVE PAPER WITH MICROPRINTED BORDER

TARPON OFFSHORE VENTURES, LP  
JOINT INTEREST ACCOUNT  
2000 DAIRY ASHFORD, SUITE 578  
HOUSTON, TEXAS 77077COMPASS BANK  
HOUSTON, TEXAS

35-1054/1130

3539

CHECK NO.

003539

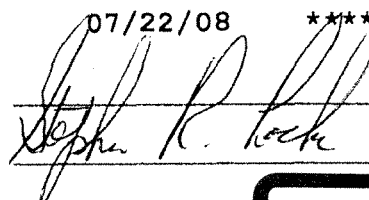
Pay\*\*\*\*\*447,581 Dollars and 00 Cents

DATE

AMOUNT

07/22/08

\*\*\*\*\*\$447,581.00

TO THE  
ORDER OF:Superior Offshore Intl.  
P.O. Box 62600  
Dept. 1394  
New Orleans LA 70162-2600

 MP  
 MP SAFEGUARD SECUR

THIS DOCUMENT CONTAINS HEAT SENSITIVE INK. TOUCH OR PRESS HERE - RED IMAGE DISAPPEARS WITH

003539 113010547 23159368

EXHIBIT

3

**From:** Charles Sandel [charlessandel@tarponop.com]  
**Sent:** Friday, October 10, 2008 11:13 AM  
**To:** Wayne Rose; stevelocke@tarponop.com  
**Cc:** djones@porterhedges.com  
**Subject:** Superior Offshore - Tarpon  
Wayne & Steve:

This is to confirm a discussion this morning between David Jones, lawyer representing Superior in bankruptcy, and me concerning settlement of outstanding amounts due on the invoice to Tarpon.

- Wayne Rose (713-418-7110) of Superior and Steve Locke of Tarpon (281-493-6336) will meet to discuss and agree upon any adjustments to the amount due because of payments made to third parties directly by Tarpon.
- Once agreement has been reached on the amount due: a) Tarpon will pay the amount to Superior; and b) Superior will obtain an order from the bankruptcy court to the effect that i) Tarpon is not liable for payment to third parties who were not paid by Superior, and ii) Superior has no claim against Gulmar for fuel onboard the Gulmar Falcon that was purchased directly by Tarpon.

I believe this is correct, but please speak up if I got something wrong.

Let me know if you have questions or need anything.

Thanks.

Charles

Charles R. Sandel  
Manager, Land & Legal  
Tarpon Operating & Development, L.L.C.  
2000 Dairy Ashford, Suite 578  
Houston, Texas 77077  
TEL (281) 759-0100  
FAX (281) 493-6821  
EMAIL charlessandel@tarponop.com

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privilege. If you have received this message in error, please promptly notify the sender by  
immediately delete this message from your system.

**EXHIBIT**

4

STATE OF TEXAS       §  
                                  §  
COUNTY OF HARRIS   §

**AFFIDAVIT OF H. MALCOLM LOVETT, JR.**  
**IN SUPPORT OF SUIT ON SWORN ACCOUNT**

Before me, the undersigned notary, on this day personally appeared H. Malcolm Lovett, Jr., a person whose identity is known to me. Upon taking an oath, Mr. Lovett stated the following:

1.       “My name is H. Malcolm Lovett, Jr. I am over 18 years of age, of sound mind and capable of making this affidavit. I am the Plan Agent under the First Amended Joint Plan of Liquidation submitted by Superior Offshore International, Inc. (the “Debtor”) and the Official Committee of Unsecured Creditors (the “Plan”). I have personal knowledge of the facts stated herein and they are true and correct.

2.       On April 4, 2008, the Debtor and Tarpon Operating and Energy, L.L.C. (“Tarpon”) entered into a master service agreement under which the Debtor agreed to provide Tarpon with diving services and a support vessel in connection with Tarpon’s offshore oil and gas business activities. The Debtor’s rates and charges for the Well-head Intervention Project are set forth in the proposal attached as **Exhibit 1** to this complaint.

3.       Tarpon has failed to pay the Debtor the sum of \$1,218,787.88, which amount is due and owing for the equipment and services provided pursuant to the agreement between the parties. The Debtor provided equipment and services to Tarpon on an open account of which a systematic record was kept. Tarpon accepted the equipment and services and is liable to pay the Debtor for the charges incurred under the agreement. The invoice attached as **Exhibit 2** represents the account of the series of transactions between the parties for which a systematic



record has been kept in the ordinary course of the Debtor's business. The account accurately sets forth the transactions between the Debtor and Tarpon.

4. The principal balance due the Debtor from Tarpon on the account is \$1,218,787.88, after allowing for all lawful and just offsets, payments, and credits."

Further, Affiant sayeth not.



H. Malcolm Lovett, Jr., Plan Agent

Sworn and subscribed before me on March 6<sup>th</sup>, 2009.



Notary Public in and for the State of Texas

